

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of the Arbitration
Between:

GLOBAL REINSURANCE CORP. OF AMERICA,
f/k/a GERLING GLOBAL REINSURANCE CORP.
OF AMERICA, f/k/a CONSTITUTION
REINSURANCE CORPORATION,

Petitioner,

-against-

ARGONAUT INSURANCE COMPANY,

Respondent.

:
: Docket No. _____
:
:
:
: PETITION TO CONFIRM
: ARBITRATION AWARD
:
: **FILED UNDER SEAL**

Petitioner GLOBAL Reinsurance Corp. of America, f/k/a Gerling Global Reinsurance Corp. of America, f/k/a Constitution Reinsurance Corp. ("Constitution"), by and through its attorneys, Budd Larner, P.C., alleges as follows:

Nature of the Petition

1. This is a petition pursuant to Section 9 of the Federal Arbitration Act, 9 U.S.C. §1 et seq., to confirm the Final Award (the "Award") issued in a reinsurance arbitration between the parties entitled In the Matter of the Arbitration Between Global Reinsurance Corp. of America, f/k/a Gerling Global Reinsurance Corp. of America, f/k/a Constitution Reinsurance Corp., Petitioner, against Argonaut Insurance Company, Respondent.

2. This action arises under the Federal Arbitration Act because the reinsurance contracts at issue evidence transactions involving commerce among the several states.

The Parties, Jurisdiction and Venue

3. Constitution is a corporation organized and existing under the laws of the State of New York. Its principal place of business is at 1345 Avenue of the Americas, 20th Floor, New York, New York.

4. Upon information and belief, Respondent Argonaut Insurance Company ("Argonaut") is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business in Chicago, Illinois.

5. The Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 because there is diversity of citizenship between the parties and the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.

6. Venue is proper in this District pursuant to 9 U.S.C. §9 because the contracts between Constitution and Argonaut provide for the arbitration to take place in New York and the Award was made in this District.

Factual Background

A. The Retrocessional Contracts and Arbitration Clauses

7. Reinsurance enables an insurance company to insure its liability under insurance policies that it issues to its insureds. In reinsurance, the insurer (often referred to in this context as the "cedent") transfers a portion of its liability to a reinsurer.

8. A retrocessional contract is reinsurance that reinsures a reinsurer. The reinsurer in this context is sometimes referred to as the "retrocessionaire."

9. Constitution and Argonaut entered into two second layer Excess of Loss Casualty Retrocessional Agreements (the "Contracts") under which Argonaut, as the retrocessionaire, provides certain reinsurance coverage to Constitution. Copies of these contracts, one effective May 1, 1970 through July 1, 1972 and the other effective July 1, 1972 through July 1, 1975, are attached to the Declaration of Virginia A. Pallotto ("Pallotto Decl.") as Exhibits A and B, respectively.

10. The Contracts contain an arbitration clause that provides in part that "[i]n the event of differences arising between the contracting parties with reference to any transactions under the Agreement, such differences must be submitted to arbitration upon the request of one of the

contracting parties." Id. at Exhibit A, Article XXIV ¶1, Exhibit B, Article XVIII ¶1.

11. The Contracts further state that "[a] decision in writing of any two of the three (two arbitrators and one umpire), when filed with the contracting parties, shall be binding upon both." Id. at Exhibit A, Article XXIV ¶3, Exhibit B, Article XVIII ¶3.

B. The Arbitration

12. By letter dated December 30, 2004, Constitution demanded arbitration against Argonaut to recover amounts due under the Contracts. Id. at Exhibit C.

13. The arbitration proceeded before a three-member panel (the "Panel") comprised of Emory L. White, Jr. and Richard L. White, as the party-appointed arbitrators for Argonaut and Constitution, respectively, and Paul E. Dassenko, as the Umpire.

14. Following discovery, the parties submitted pre-hearing briefs and attended a five-day arbitration hearing, from February 26 through March 2, 2007.

15. The Panel issued its Final Award on July 12, 2007. Id. at Exhibit D. Thereafter, the Panel issued an Order clarifying its Final Award. Id. at Exhibit E.

Count I

16. Constitution incorporates each of the allegations contained in paragraphs 1 through 15 of this Petition.

17. No motion has been made to vacate, modify, or correct the Award.

18. This Petition is timely because it is filed within one year after the Award was made.

19. Pursuant to 9 U.S.C. §9, Constitution is entitled to confirmation of July 12, 2007 Final Award (attached as Exhibit D to Decl.) as clarified by the Panel's subsequent Order (attached as Exhibit E).

WHEREFORE, Constitution requests that the Court enter judgment confirming the July 12, 2007 Award as clarified by the Panel's subsequent Order and granting Constitution post-award interest and such other further relief as is just and proper.

Dated: August 24, 2007
New York, New York

BUDD LARNER, P.C.
11 Penn Plaza - 5th Floor
New York, New York 10001
(212) 946-2798

- and -

150 John F. Kennedy Parkway
Short Hills, New Jersey 07078
(973) 379-4800

Attorneys for Petitioner GLOBAL
Reinsurance Corporation of
America

BY: 

Joseph J. Schiavone (JS 7303)
Jeffrey S. Leonard (JL 5931)
Ivan Miletic (IV 9922)